

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15546 of Celia Properties, Limited Partnership, as amended, pursuant to 11 DCMR 3108.1 for a special exception under Section 2517 to allow a theoretical lot subdivision within 25 feet of a residential district, for the renovation and construction of three commercial structures on one lot in a C-3-A/C-M-1 District at premises 3930-3950 Minnesota Avenue, N.E., [Square 5044, Lots 1, 2, and 3 (22)].

HEARING DATE: September 11, 1999
DECISION DATE: September 11, 1991 (Bench Decision)

DISPOSITION: The Board GRANTED the application by a vote of 4-0 (Maybelle Taylor Bennett, Paula L. Jewell, Sheri M. Pruitt and Charles R. Norris to approve; Carrie L. Thornhill not voting, not having heard the case).

FINAL DATE OF ORDER: September 27, 1991

MODIFICATION ORDER

The Board initially granted the application by its order dated September 27, 1991. By letter dated March 25, 1997, counsel for the applicant filed a motion to waive the six month filing requirement to allow for the filing of a request for modification to the theoretical lot subdivision.

The applicant stated that in 1991, the Board of Zoning Adjustment (BZA) granted approval for a special exception to allow a theoretical lot subdivision within 25 feet of a residential district. The three theoretical lots approved were necessary to allow for the renovation and construction of three commercial structures on one lot in a C-3-A/C-M-1 District at 3930-3950 Minnesota Avenue, N.E. (Square 5044, Lot 22). The proposal was supported by Advisory Neighborhood 7D and the Office of Planning. The applicant now requests to reconfigure the three theoretical lots into four theoretical lots for the following reasons.

The site presently consists of approximately six acres of land area improved with several vacant retail buildings along the street frontage of Minnesota Avenue, N.E., including a former Woolworth store, the historic facade and lobby of the former Senator Theater, and a recently demolished U.S. Post Office. At the rear of the property is a building formerly occupied by Giant Food and a surface parking lot.

Since the time of the approval, the owner received building permits to renovate and construct the three commercial buildings contemplated for the three approved theoretical lots. Subsequently, however, the lead tenant for the project, Giant Food, withdrew its commitment to the site, thus forcing the owner to not only find a new lead food store tenant, but to find smaller retail tenants whose businesses would be dependent on the presence of the grocery store. After extensive marketing and numerous lease negotiations, the applicant was unable to attract a grocery store to the site. Thus, the one-story shopping center approved for the site is no longer viable. Instead, the applicant now intends to proceed with four separate structures on four theoretical lots.

The first theoretical lot at the southern end of the site will contain approximately 84,900 square feet of land area. It consists of an existing one-story building, formerly occupied by Giant Food, and contains 19,141 square feet of space that will be renovated for use as a clinic. A total of 58 parking spaces are required for this use. The applicant will provide a total of 136 parking spaces.

The second theoretical lot will contain approximately 112,478 square feet of land area. It consists of the existing storefront buildings at premises 3932-3942 Minnesota Avenue, N.E., including the former Woolworth store. These buildings which will be renovated for retail use, will contain 51,795 square feet of space and will require 163 parking spaces. The applicant will provide 200 parking spaces.

The third theoretical lot will contain approximately 30,950 square feet of land area. It consists of the former Senator Theater facade and lobby which will be renovated for use as a fast food restaurant. The building will contain approximately 3,320 square feet of space and will require 19 parking spaces. The applicant will provide 30 spaces.

The fourth theoretical lot at the northern portion of the site will contain 33,150 square feet of land area. Formerly the site of the post office, this lot will consist of a new one-story retail building containing 8,056 square feet of space. The applicant will provide 43 parking spaces although only 17 spaces are required.

The applicant stated that the proposed theoretical lot subdivision maintains greater similarity to the existing layout of the site than the plan previously approved by the Board. The modified plan will require fewer changes to the present configuration of buildings, resulting in less disruption to the neighborhood. The applicant believes that the requested modification is minor, and does not materially change the basis for approval of the original application. Therefore, the applicant requested that he Board

approve the revised subdivision without a hearing.

No responses to this request were submitted to the Board from other parties to the application.

Upon consideration of the motion for waiver of the six month filing requirement and the circumstances surrounding the applicant's efforts to secure tenants for the property, the Board determines that the waiver should be approved.

Upon consideration of the request for modification to the theoretical lot subdivision and lack of opposition to the request, the Board concludes that the proposed modifications are minor and do not change the material facts relied upon by the Board in approving the application. The Board concludes that the proposed changes are necessary to move the project forward for the revitalization of this neighborhood.

The Board notes that the current Board members have reviewed the record in the initial application and the instant request to allow for a proper decision.

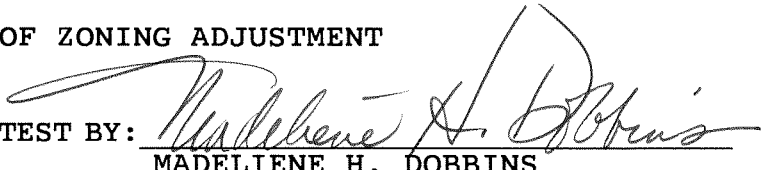
In light of the foregoing, it is **ORDERED** that the requests for **WAIVER** and **MODIFICATION** are **APPROVED**, subject to the **CONDITION** that construction shall be in accordance with the plans marked as Exhibit No. 36A of the record. In all other respects the previous order of the Board shall remain in full force and effect.

DECISION DATE: May 7, 1997

VOTE: 3-1 (Angel F. Clarens, Susan Morgan Hinton and Sheila Cross Reid to approve; Laura M. Richards opposed to the motion; Maybelle Taylor Bennett not voting, not having reviewed the record).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTEST BY:


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: _____

JUN 12 1997

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE

FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION NO. 15546

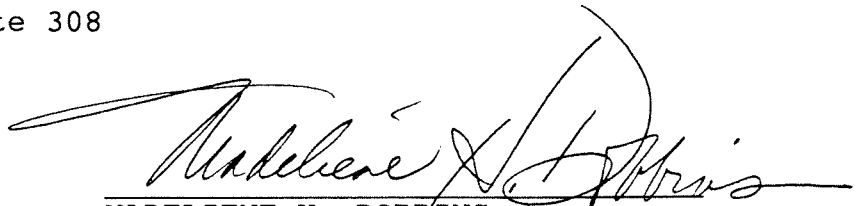
As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this application dated JUN 12 1997 has been mailed first class, postage prepared to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Celia Properties
c/o Delbe Realty
4801 Massachusetts Avenue, N.W.
Washington, D.C. 20016

John Epting, Esquire
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W., Suite 1100
Washington, D.C. 20006

Michael Sizemore, Chairperson
Advisory Neighborhood Commission 7D
3801 Minnesota Avenue, N.E.
Washington, D.C. 20019

Eugene H. Phifer, Jr.
c/o Robert Diamond
1725 K Street, N.W., Suite 308
Washington, D.C. 20006


MADELIENE H. DOBBINS
Director

Date: JUN 12 1997